

House Energy and Commerce Committee
Subcommittee on Oversight and Investigations Hearing:
“Thoroughbred Horse Racing Jockeys and Workers: Examining On-Track Injury
Insurance and Other Health and Welfare Issues”
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On July 24, 2004, future Hall of Fame rider Alex Solis was riding a dark brown four-year old mare named Golden KK in a \$32,000 claiming race at Del Mar, the seaside race track built by Bing Crosby and Pat O'Brien in 1937. Although Alex's mount was fading from contention in the race and in seventh position, an apprentice rider likewise out of contention cut Alex off along the rail. Alex's horse clipped heels with the apprentice's horse and fell to the ground. While Golden KK got immediately to her feet and ran off with the field, Alex rolled under the safety rail near the quarter pole and remained there motionless as his training and instincts led him to do. In less than 30 seconds, an ambulance following the race with two emergency medical technicians on board was at Alex's side. Alex was carefully placed onto a board and immobilized for transport to an on site medical clinic at Del Mar where he was immediately attended by a physician who determined that Alex should be transported to a local emergency room for further evaluation. While Alex was being transported, the races resumed with a backup ambulance following each race.

Alex was eventually diagnosed with a fractured vertebra and three broken ribs and operated on at the University of California, San Diego Medical Center. He was unable to return to work for six months yet still managed to rank ninth nationally in total purse

earnings in 2004 with \$11,554,851. While this is an unfortunate story, the silver lining in it is the fact that the trainer of the horse Alex was riding was required by the rules and regulations of the California Horse Racing Board to maintain a policy of workers compensation insurance. That policy covered Alex to the same extent as any other worker in California would be covered in the event of a work-related injury. Under the terms of that policy and California law, Alex's medical expenses were covered to the extent required to cure or relieve the effects of the injury with no deductible or co-payments by Alex as the injured worker. He was also entitled to temporary disability benefits to partially replace lost wages and had he been unable to return to his profession he would have been entitled to permanent disability benefits and supplemental job displacement benefits. The cost of that workers compensation insurance was paid by the trainer of Golden KK and in the case of a rider billed to the owner of the horse. Under two programs authorized by Sections 19605.73, 19605.75, and 19607.4 of the California Horse Racing Law the cost of that insurance is subsidized by racetracks and horsemen through a variety of funds derived from wagering on California races. In addition, every California track pays for supplemental Catastrophic Injury Insurance through a TRA sponsored group program that would pay significant benefits in the event of permanent disability or death. That program is available only to TRA tracks in states where workers compensation is available for injured riders and has been continually funded by those tracks despite the fact that the agreement with the Jockeys Guild, which contemplated the additional coverage, lapsed several years ago.

As you will hear in more detail later today from Richard Shapiro of the California Horse Racing Board, what this story illustrates is the leadership role California has

assumed in the Thoroughbred racing industry with regard to jockey safety and health issues. It is one of five states that mandates workers compensation coverage for jockeys and exercise riders and one of two that provides funding through wagering dollars to pay for health insurance for jockeys and their dependents. Racetracks, horsemen and representatives of the riders have worked together for years to develop legislative and regulatory standards for track safety and to contribute significant funding to the Disabled Jockeys Endowment. Del Mar was the first racetrack in the United States to install the Fontana safety rail on its dirt racetrack, an innovation that has undoubtedly saved lives and prevented serious injury since its installation. More recently, we have worked closely with the California Horse Racing Board and Barry Broad; formerly counsel to the Jockeys Guild, to pass AB 1180, recently signed into law by Governor Schwarzenegger. That new law memorializes a number of safety and health initiatives for the benefit of California riders including a peer reviewed academic nutritional and health assessment designed to provide a scientific basis for future policy decisions concerning the jockey scale of weights and nutrition and weight management programs. We are in the final stages of evaluating a proposal from Dr. Dan Benardot, PhD of Georgia State University to conduct the study and are working with various industry groups including the TRA, Thoroughbred Owners of California, California Thoroughbred Trainers, National HBPA, THA, Racing Commissioners International and the NTRA to fund the study on a national basis.

Moreover, California is to my knowledge the only state in the country to require a postmortem examination of every horse that dies on the grounds of a licensed racetrack or auxiliary training center. That requirement has enabled the industry to support and

benefit from research into the causes of catastrophic injuries to horses conducted by the University of California at Davis School of Veterinary Medicine. That research most recently lead to the adoption of a regulation limiting the use of horseshoes with toe grabs on California racing surfaces based upon findings that there is a significant correlation between the use of medium and high toe grabs and the incidence of catastrophic limb failure in horses while racing or training. Similar research has and will continue to contribute significantly to our ability to increase safety for horses and riders, as we are more able to confidently identify the causes of injury and attempt to prevent them before they occur.

It is undoubtedly true that these programs come at a cost. I would be remiss if I did not inform you that California operates at a serious competitive disadvantage to other states where the cost of owning and training horses is significantly less. Simply put, horses are our product and the quantity and quality of horses available for racing translates into higher wagering activity. For a number of years now California has been losing horses to other states where the cost of doing business is lower. Nonetheless, I am not aware of any advocate in California for reducing or eliminating the level of benefits provided riders at present. I firmly believe that when any rider in California suffers an injury while riding in a race the industry takes pride in the fact that they are assured adequate medical care and disability benefits.

Despite the competitive factors that have affected us in recent years, California racetracks continue to invest heavily in track maintenance and safety. When I came to work at Del Mar in 1990 after spending eight years practicing law, the first thing I did was to spend a day with Steve Wood, the track superintendent at Del Mar, Santa Anita

and Fairplex. Steve's day begins at around 4:30 am and can extend late into the evening while tractors; harrows and earthmovers groom and maintain the dirt surfaces used for training and racing. In 2005, Del Mar spent in excess of \$1.2 million maintaining the quality and consistency of its dirt and turf tracks to ensure safe riding surfaces for horses and jockeys during its seven week meet. We have also worked with the California Thoroughbred Trainers to monitor track conditions from the trainer perspective and to sponsor research into new methods of evaluating track hardness, surface consistency and base conditions being developed by Dr. Mick Peterson, PhD of the University of Maine working with Dr. Wayne McIlwraith, DVM of Colorado State University Veterinary School. That research has provided us with new insights into track maintenance techniques and has assisted in the adaptation of diagnostic tools such as ground penetrating radar to evaluate subsurface conditions. We are also evaluating along with Drs. Peterson and McIlwraith and Dr. Sue Stover of the UC Davis Veterinary School a new Polymer coated silica sand surface developed in the United Kingdom and presently being used at Turfway Park and Keeneland in Kentucky called Polytrack. I firmly believe that this surface will eventually replace virtually every dirt track in the United States and result in dramatic improvements in track safety for both horse and rider. Preliminary results from both Keeneland and Turfway Park indicate that this prediction can be substantiated both empirically and anecdotally.

I started this testimony with a description of an unfortunate incident that occurred at Del Mar to my friend Alex Solis. Accidents seem to go hand in hand with riding horses and some of those incidents, like the one experienced by Alex, are difficult if not impossible to prevent. We are, however, working hard to do more to prevent injuries

through scientific research, educational efforts and communication within the industry and the industry has an obligation to expend the resources to do that, not just in California but everywhere.

Alex's story has a happy ending as he returned to riding early in 2005 and currently ranks 14th nationally with purse earnings in excess of \$8.8 million for the year. There is, however, one aspect of the story that does not have a happy ending as of yet. Had Alex Solis suffered similar injuries in a car crash, it is unclear whether his health insurance would have been adequate to cover his expenses since that would not be covered by workers compensation. That inadequacy would not be a result of any failure of the California industry to adequately fund health insurance for riders – it has – but from the fact that health insurance for California riders is part of a national self insurance program managed by the Jockeys Guild, a program whose financial health is in serious doubt given the pattern of obfuscation practiced by the management of the Jockeys Guild in the face of inquiries by the California Horse Racing Board and the Thoroughbred Owners of California, indeed in the face of inquiries from its own members. I would encourage this committee to continue to work with the industry to remedy this situation and to ensure that racetracks, owners, trainers and regulators have a responsible partner representing the interests of riders; one which will work with us rather than against us in addressing safety and health issues constructively.